

Entered - 07/25/03 - sb
CL03L0602 - DIANNE C. MITCHELL

CLAIM OF: **BENJAMIN S. WILLIAMS**
468 West Paces Ferry Road
Atlanta, Georgia 30303

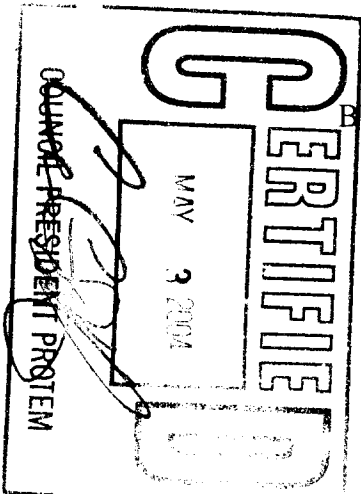
04-R-0690

For damages alleged to have been sustained as a result of property damage due to a sanitary sewer back up on April 25, 2003 at 468 West Paces Ferry Road.

THIS ADVERSED REPORT IS APPROVED

BY:


JERRY L. DELOACH
DEPUTY CITY ATTORNEY



ADVERSE REPORT

PUBLIC SAFETY &

LEGAL ADMINISTRATION COMMITTEE

ADVERSED

MAY 03 2004

4/27/04
Handwritten signatures:
H. L. Smith
Mary Norwood
C. Smith
C. H. Anderson



**CITY OF ATLANTA
OFFICE OF MUNICIPAL CLERK**

**RHONDA DAUPHIN JOHNSON, CMC
MUNICIPAL CLERK**

May 10, 2004

55 TRINITY AVENUE, S.W.
SECOND FLOOR, EAST
SUITE 2700
ATLANTA, GEORGIA 30303
(404) 330-6033
FAX (404) 658-6273

Benjamin S. Williams
468 West Paces Ferry Rd.
Atlanta, GA 30303

04-R-0690

Dear Mr. Williams:

I sincerely regret that you have been adversely affected by the circumstances raised in your claim for damages against the City of Atlanta. Your time and patience in this matter has been greatly appreciated.

However, I must notify you that the Atlanta City Council Adopted an Adverse Report on your claim at its regular meeting on December 01, 2004. In consultation with the City's Law Department, who conducted an investigation of the situation, the Council has determined that the City cannot accept responsibility for this matter and therefore cannot pay this claim.

If you desire any further information, please contact the **City Attorney's Office/Claims Division** at (404) 330-6400.

Yours very truly

Rhonda Dauphin Johnson, CMC
Municipal Clerk

cc: Claims Division/Law Department

DEPARTMENT OF LAW - CLAIM INVESTIGATION SUMMARY

Claim No. 03L0602

Date: April 6, 2004

Claimant /Victim BENJAMIN S. WILLIAMS

BY: (Atty)(Ins. Co.) _____

Address: 468 West Paces Ferry Road, Atlanta, Georgia 30303

Subrogation: _____ Claim for Property damage \$ Not Stated Bodily Injury \$ _____

Date of Notice: 07/21/03 Method: Written, proper X Improper _____

Conforms to Notice: O.C.G.A. §36-33-5 X Ante Litem (6 Mo.) X

Date of Occurrence 04/25/03 Place: 468 West Paces Ferry Road

Department Watershed Management Bureau: Waste Water

Employee involved _____ Disciplinary Action: _____

NATURE OF CLAIM: The claimant alleges his property was damaged due to a sewer back up. However, the investigation determined that the City had no notice of any problems with the sanitary sewer line prior to the event involving the claimant's property. Furthermore, the City is immune from liability as set forth in O.C.G.A. §36-33-1.

INVESTIGATION:

Statements: City employee X Claimant _____ Others _____ Written _____ Oral X

Pictures _____ Diagrams _____ Reports: Police _____ Dept Report X Other _____

Traffic citations issued: City Driver _____ Claimant Driver _____

Citation disposition: City Driver _____ Claimant Driver _____

BASIS OF RECOMMENDATION:

Function: Governmental X Ministerial _____

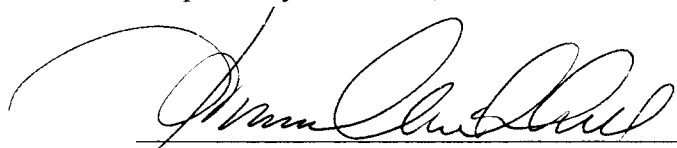
Improper Notice _____ More than Six Months _____ Other X Damages reasonable _____

City not involved _____ Offer rejected _____ Compromise settlement _____

Repair/replacement by Ins. Co. _____ Repair/replacement by City Forces _____

Claimant Negligent _____ City Negligent _____ Joint _____ Claim Abandoned _____

Respectfully submitted,


INVESTIGATOR - DIANNE C. MITCHELL

RECOMMENDATION:

Pay \$ _____ Adverse X Account charged: 1A01 _____ 2J01 _____ 2H01 _____ 2P01 _____

Claims Manager:  Concur/date 04/14/04

Committee Action: _____ Council Action _____

COUNCIL OF THE CITY OF ATLANTA
MUNICIPAL CLERK
City Hall
55 Trinity Avenue, S.W.
Atlanta, Georgia 30335

RECEIVED

RE: CLAIM FOR DAMAGES

JUL 21 2003

Bay

MUNICIPAL CLERK

Today's Date: 7/12/03

ENTERED - 7/25/03 - DP
03L0602 - DIANNE MITCHELL

Dear Municipal Clerk:

This is to notify the City of Atlanta that I have suffered damages in the amount sum of \$ _____ property and/or \$ _____ bodily injury for which I contend the City is liable.

1. Date of incident: April 25, 2003 (month/day/year). 2. Time of Incident: 8:30 pm 3. Police called: ☒ Yes ☐ No

4. Location of incident (including street address): 468 West Paces Ferry Road, Atlanta, Georgia 30303

5. Name of your insurance company: Marsh-Great Northern Policy No. 1114746408

6. State what and how incident occurred: SEE ATTACHMENT A

7. ALL ESTIMATES AND DAMAGES ARE SUBJECT TO INSPECTION. THE MAKING OF FALSE CLAIMS WILL RESULT IN YOUR CLAIM BEING DENIED AND MAY RESULT IN CRIMINAL PROSECUTION!

8. The registered owner must make the claim for vehicle damages, complete the following and attach two (2) estimates of repair and proof of ownership of your vehicle (copy of the current tag receipt or title).

Your vehicle: _____
(Make) (Year) (Tag Number) (Driver's Name)

City vehicle: _____
(Make) (City Driver's Name) (Department/Bureau)

9. Witness: _____
(Name) (Address) (Telephone Number)

10. The acknowledgement of this claim in no way waives the sovereign immunity of the City of Atlanta, as granted by State law, nor is it an admission of liability on behalf of the City of Atlanta and / or its employee(s).

11. This claim should be mailed immediately to the address shown above.

I HEREBY SWEAR OR AFFIRM THAT THE ABOVE INFORMATION IS TRUE AND CORRECT.

Signature of Claimant

Benjamin S. Williams, Esq.

(Print Claimant's Name)

468 West Paces Ferry Road

(Address)

Atlanta, Georgia 30303

(City, State and Zip Code)

(404) 760-4900

(Work Number)

(404)

(Home Number)

|

BENJAMIN S. WILLIAMS & ASSOCIATES, L.L.C.

ATTORNEYS AT LAW
SUITE 1050, TOWER PLACE 200
3348 PEACHTREE ROAD, N.E.
ATLANTA, GEORGIA 30326

BENJAMIN S. WILLIAMS
GARY L. WIMBISH*

VOICE (404) 760-4900
FAX (404) 760-4909
*Member of GA and FL Bars

Attachment A

Claim for Damages

On the evening of April 25, we had a hail & rain storm. I walked outside and around my property after the storm was over just to check for any type of damage to my house or grounds. When I came around by my pool house area, I smelled a horrible odor. I went inside my pool house only to step into sewage on my floor. After further inspection, I noticed that sewage was spouting up from my toilet and shower. The floor in my pool house was totally covered with raw sewage. I immediately called my assistant, Diane Whitaker, and asked her to call The City of Atlanta and explain what was happening at my home. While on the phone with Diane I finishing walking around my house. As I proceeded to further investigate my property, I noticed a steady stream of sewage coming from the manhole cover at the back of my property. To my amazement the sewage was not only running into my swimming pool and shooting up from the toilet and shower drain but also running down the back of my property traveling towards the storm runoff drain.

My assistant, Diane Whitaker, called me back and informed me that she had spoken to Darryl, with the City of Atlanta, Sewer Department. Darryl

1

BENJAMIN S. WILLIAMS & ASSOCIATES, L.L.C.

ATTORNEYS AT LAW
SUITE 1050, TOWER PLACE 200
3348 PEACHTREE ROAD, N.E.
ATLANTA, GEORGIA 30326

BENJAMIN S. WILLIAMS
GARY L. WIMBISH*

VOICE (404) 760-4900
FAX (404) 760-4909
*Member of GA and FL Bars

informed her that the City of Atlanta had problems all over the city and he would put me on the schedule. After a few hours had passed, and sewage was still coming into my home, I had Diane call Darryl again to explain the severity of the situation at my home. Darryl informed Diane that someone would be out.

Someone from the City of Atlanta arrived that evening. After assessment of my property that evening, the City of Atlanta dispatched crews the next morning to begin cleanup of the sewage cleanup. Those present the next morning were Alan Stillwell, Bobby Bankston, Mr. Beckham, and a crew of men from the City of Atlanta too. I informed all of them that I needed for my swimming pool to be pumped out, since the water in the pool was now contaminated with raw sewage. Also, inside my pool house, some of my antiques, antique furnishings, drapes, rugs and interior structure (walls and floors) had been damaged by the sewage and needed to be cleaned as well.

Ben from First Choice Restoration came out per Mr. Beckhom, Mr. Bankston and Alan Stillwell's recommendation. They were going to clean up and disinfect the inside and outside areas of the pool house including, cleaning and disinfecting of the antique furniture, drapery, and oriental rugs. I have

|

BENJAMIN S. WILLIAMS & ASSOCIATES, L.L.C.

ATTORNEYS AT LAW
SUITE 1050, TOWER PLACE 200
3348 PEACHTREE ROAD, N.E.
ATLANTA, GEORGIA 30326

BENJAMIN S. WILLIAMS
GARY L. WIMBISH*

VOICE (404) 760-4900
FAX (404) 760-4909
*Member of GA and FL Bars

enclosed some pictures documenting the damage to the areas discussed above.

First choice came in and cleaned and disinfected the house and the area surrounding the pool. They brought in several fans to dry out the floors and walls. After a few weeks, the walls still tested wet with the meter. The interior walls at the fireplace and facing the pool were still soaked. The fans were left on another week. After testing the walls again (at this point the walls still had an odor) First Choice Restoration, determined that the baseboards must come off in these areas that still tested wet. After pulling off the baseboard, the sheetrock was wet and had a strong odor. Live fungus was growing on the sheetrock, from being soaked by waste water. Due to health reasons, the decision was made to cut out the infected/soiled sheetrock off the wall in order to get rid of the mold spores growing. The pool house drapes and rungs were taken to the cleaners for cleaning by First Choice Restoration in May 2003 and still have not been returned to this day.

After the walls were completely dried out and tested, I asked Ben with First Choice Restoration, when would the work begin on replacement of the baseboards and sheetrock, he informed me that the City of Atlanta was

|

BENJAMIN S. WILLIAMS & ASSOCIATES, L.L.C.

ATTORNEYS AT LAW
SUITE 1050, TOWER PLACE 200
3348 PEACHTREE ROAD, N.E.
ATLANTA, GEORGIA 30326

BENJAMIN S. WILLIAMS
GARY L. WIMBISH*

VOICE (404) 760-4900
FAX (404) 760-4909
*Member of GA and FL Bars

handling that portion of the clean up process. Upon calling Alan Stillwell, he informed me that that was our job.

Since no one from the City of Atlanta returned to finish the work, I hired someone to re-install sheetrock and baseboard and I have enclosed their bill. The painting contractor will be out next week and I will submit his bill as soon as he is finished.

As of today's date, I am submitting the bills for the clean up of the swimming pool, including the acid wash and chemical shock. I still await the bill for the pool pump room, for the cleaning of the filters and clogged parts that had to be replaced. Also, I am waiting for my water bill for the refilling of my swimming pool of approximately 60,000 gallons of water. I notified United Water, City of Atlanta, and Alan Stillwater, as to the correct procedure for handling this and to date my calls have not been returned, nor my emails answered by his office.

There will be an amended claim sent to the City of Atlanta once I have received a final billing from the contractor that I had to hire to finish the clean

|

BENJAMIN S. WILLIAMS & ASSOCIATES, L.L.C.

ATTORNEYS AT LAW
SUITE 1050, TOWER PLACE 200
3348 PEACHTREE ROAD, N.E.
ATLANTA, GEORGIA 30326

BENJAMIN S. WILLIAMS
GARY L. WIMBISH*

VOICE (404) 760-4900
FAX (404) 760-4909
*Member of GA and FL Bars

up. Please note in my letter that all parties listed, saw with their own eyes, the damage to my home, pool and property.

Sincerely,



Benjamin S. Williams

04-R-0690

1
2
3
4
5
6
7
8
9
10